

Montana State Legislature

2013 Session

Additional Documents include:

- * Business Report**
- * Roll Call attendance**
- * Standing Committee Reports,**
- * Table Bills, Fiscal reports etc.**
- * Roll Call Votes**
- * Witness Statements**
- * Informational items**
- * Visitor Registrations**
- * Any other Documents;**
 - ~ Petitions if any?**
 - ~ Any and all material handed in after the meeting end.**

**The original is on file at the
Montana Historical Society and
may be viewed there.**

BUSINESS REPORT

**MONTANA SENATE
63rd LEGISLATURE - REGULAR SESSION**

SENATE BUSINESS, LABOR, AND ECONOMIC AFFAIRS COMMITTEE

Date: Thursday, March 28, 2013
Place: Capitol

Time: 9:30 A.M.
Room: 422

BILLS and RESOLUTIONS HEARD:

EXECUTIVE ACTION TAKEN:

SB400 - Do Pass As Amended

Comments:



SEN. Jon Sonju, Chair

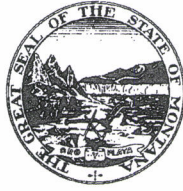
MONTANA STATE SENATE ROLL CALL

BUSINESS, LABOR, AND ECONOMIC AFFAIRS

DATE: 3-28, 2013

NAME	PRESENT	ABSENT/ EXCUSED
Vice Chair Jackson	✓	
Senator Facey	✓	
Senator Arntzen	✓	
Senator Moore	✓	
Senator Stewart-Peregoy	✓	
Senator Barrett	✓	
Senator Brown	✓	
Senator Van Dyk		✓
Senator Vuckovich	✓	
Chairman Sonju	✓	

10 Committee Members



SENATE STANDING COMMITTEE REPORT

March 28, 2013

Page 1 of 11

Mr. President:

We, your committee on **Business, Labor, and Economic Affairs** recommend that **Senate Bill 400** (first reading copy -- white) **do pass as amended.**

Signed: _____

A handwritten signature in black ink, appearing to read "Jon H.", written over a horizontal line.

Senator Jon Sonju, Chair

And, that such amendments read:

1. Title, page 1, line 5.

Following: "ACT; ESTABLISHING"

Insert: "LICENSING AND OTHER"

2. Title, page 1, line 9.

Strike: "AND PROVIDING A PENALTY"

Insert: "EXPANDING THE EXISTING RULEMAKING AUTHORITY OF THE
DEPARTMENT OF LABOR AND INDUSTRY; AND AMENDING SECTIONS 37-
60-101, 37-60-103, 37-60-202, 37-60-301, 37-60-303, 37-60-
304, 37-60-405, AND 46-9-510, MCA"

3. Page 1, line 13.

Strike: "8"

Insert: "5"

4. Page 1, line 16.

Strike: "8"

Insert: "5"

5. Page 1, line 18.

Following: "means"

Insert: "a surety or"

Strike: "by the commissioner" through "33-17-211"

Insert: "as a surety insurance producer under Title 33, chapter
17"

Committee Vote:

Yes 9, No 1

Fiscal Note Required ☐

6. Page 1, line 24.

Following: "(3)"

Insert: "(a)"

Strike: ":"

Insert: "a person who is licensed under Title 37, chapter 60, and
who is employed by or"

7. Page 1, line 25.

Strike: "(a) a person who is"

Strike: "depositor of bail"

Insert: "surety"

8. Page 1, line 26.

Strike: "investigate, keep under surveillance, locate, or"

Insert: "apprehend and"

9. Page 1, lines 27.

Following: "officer"

Insert: "."

Strike: "; and"

10. Page 1, lines 28 through 30.

Strike: subsection (b) in its entirety

Insert: "(b) A bail fugitive recovery agent who is in the course
of apprehending and arresting a bail fugitive may conduct an
investigation as provided in 37-60-101(21) (b) without being
licensed as a private investigator."

11. Page 2, line 1.

Strike: ""Depositor of bail""

Insert: ""Surety""

12. Page 2, line 4.

Following: "fugitive"

Insert: "-- title reserved"

13. Page 2, line 6.

Strike: "bail bond agent,"

Strike: ", or a depositor of bail"

Following: "."

Insert: "If a bail bond agent or a surety apprehends, detains, or
arrests a bail fugitive, the bail bond agent or surety must
be licensed as a bail fugitive recovery agent."

14. Page 2, line 7.

Following: "prohibit"

Strike: "the surrender of a defendant or"

Following: "pursuant to"

Insert: "46-6-502 or a surrender under"

15. Page 2, line 8.

Following: "46-9-510"

Insert: "unless the person arrested is a bail fugitive"

16. Page 2.

Following: line 8

Insert: "(3) A person may not use the title of bail fugitive recovery agent or bounty hunter unless the person is licensed as a bail fugitive recovery agent under Title 37, chapter 60."

17. Page 2, line 10 through line 23.

Strike: section 4 in its entirety

ReNUMBER: subsequent sections

18. Page 2, line 25.

Following: "authority"

Insert: "-- out-of-state requirements"

Following: "authority."

Insert: "(1)"

19. Page 2, line 27.

Strike: "depositor of bail"

Insert: "surety"

20. Page 2, line 29.

Strike: "(1)"

Insert: "(a)"

ReNUMBER: subsequent subsections

21. Page 3.

Following: line 3

Insert: "(2) An out-of-state bail fugitive recovery agent shall, in addition to having the documentation required under subsection (1), notify the board of licensure with another state during the time the out-of-state bail fugitive recovery agent is operating in this state or provide

documentation to the board of having a contract with a bail bond agent in Montana."

22. Page 3, line 17.

Strike: "depositor of bail"

Insert: "surety"

23. Page 3, line 23 through line 29.

Strike: section 7 through section 8 in their entirety

Insert: "Section 6. Section 37-60-101, MCA, is amended to read:

"37-60-101. **Definitions.** As used in this chapter, the following definitions apply:

(1) "Alarm response runner" means an individual employed by an electronic security company, a contract security company, or a proprietary security organization to respond to security alarm system signals.

(2) "Armed" means an individual who at any time wears, carries, or possesses a firearm in the performance of professional duties.

(3) "Armed carrier service" means any person or security company who transports or offers to transport under armed private security guard from one place to another any currency, documents, papers, maps, stocks, bonds, checks, or other items of value that require expeditious delivery.

(4) "Armed private investigator" means a private investigator who at any time wears, carries, or possesses a firearm in the performance of the individual's duties.

(5) "Armed private security guard" means an individual employed by a contract security company or a proprietary security organization whose duty or any portion of whose duty is that of a security guard, armored car service guard, or carrier service guard and who at any time wears or carries a firearm in the performance of the individual's duties.

(6) "Armored car service" means any person or security company who transports or offers to transport under armed private security guard from one place to another any currency, jewels, stocks, bonds, paintings, or other valuables of any kind in a specially equipped motor vehicle that offers a high degree of security.

(7) "Bail bond agent" has the meaning provided in [section 2].

(8) "Bail fugitive" has the meaning provided in [section 2].

(9) "Bail fugitive recovery agent", also known as a bounty hunter, has the meaning provided in [section 2]. A bail fugitive recovery agent is not required to be licensed as a private investigator but may conduct activities under subsection (21)(b) of this section for the purposes of apprehending or arresting a bail fugitive for surrender to the appropriate court, detention facility, or peace officer.

~~(7)~~(10) "Board" means the board of private security

provided for in 2-15-1781.

~~(8)~~(11) "Branch office" means any office of a licensee within the state, other than its principal place of business within the state.

~~(9)~~(12) "Contract security company" means any person who undertakes to provide a private security guard, alarm response runner, armored car service, street patrol service, or armed carrier service on a contractual basis to another person who exercises no direction and control over the performance of the details of the services rendered.

~~(10)~~(13) "Department" means the department of labor and industry provided for in 2-15-1701.

~~(11)~~(14) (a) "Electronic security company" means a person who sells, installs, services, or maintains a security alarm system and who undertakes to hire, employ, and provide alarm response runners and security alarm installers on a contractual basis to another person who does not exercise direction and control over the performance of the services rendered.

(b) The term does not include a person whose primary business is that of a locksmith and who may also install closed-circuit television cameras and battery-operated door devices.

~~(12)~~(15) "Firearms course" means the course approved by the board and conducted by a firearms instructor.

~~(13)~~(16) "Firearms instructor" means an individual who has been approved by the board to instruct firearms courses in the use of weapons.

~~(14)~~(17) "Insurance adjuster" means a person employed by an insurance company, other than a private investigator, who for any consideration conducts investigations in the course of adjusting or otherwise participating in the disposal of any claims in connection with a policy of insurance but who does not perform surveillance activities or investigate crimes against the United States or any state or territory of the United States.

~~(15)~~(18) "Licensee" means a person licensed under this chapter.

~~(16)~~(19) "Paralegal" or "legal assistant" means a person qualified through education, training, or work experience to perform substantive legal work that requires knowledge of legal concepts and that is customarily but not exclusively performed by a lawyer and who may be retained or employed by one or more lawyers, law offices, governmental agencies, or other entities or who may be authorized by administrative, statutory, or court authority to perform this work.

~~(17)~~(20) "Person" means an individual, firm, company, association, organization, partnership, or corporation.

~~(18)~~(21) "Private investigator" means a person other than an insurance adjuster who for any consideration makes or agrees to make any investigation with reference to:

(a) crimes against the United States or any state or territory of the United States;

(b) the identity, habits, conduct, business, occupation, honesty, integrity, trustworthiness, efficiency, loyalty, activity, movement, location, affiliations, associations, transactions, reputation, or character of any person;

(c) the location, disposition, or recovery of lost or stolen property;

(d) the cause or responsibility for fires, libels, losses, accidents, or injury to persons or property; or

(e) gathering evidence to be used before any court, board, officer, or investigating committee.

~~(19)~~ (22) "Private security guard" means an individual employed or assigned duties to protect a person or property or both a person and property from criminal acts and whose duties or any portion of whose duties include but are not limited to the prevention of unlawful entry, theft, criminal mischief, arson, or trespass on private property or the direction of the movements of the public in public areas.

~~(20)~~ (23) "Process server" means a person described in 25-1-1101(1).

~~(21)~~ (24) "Proprietary security organization" means any person who employs a private security guard, alarm response runner, armored car service, street patrol service, or armed carrier service on a routine basis solely for the purposes of that person and exerts direction and control over the performance of the details of the service rendered.

~~(22)~~ (25) "Resident manager" means the person appointed to exercise direct supervision, control, charge, management, or operation of each office located in this state where the business of the licensee is conducted.

~~(23)~~ (26) (a) "Security alarm installer" means an individual who sells, installs, services, or maintains security alarm systems to detect and signal unauthorized intrusion, movement, break-in, or criminal acts and is employed by an electronic security company.

(b) The term does not include a person whose primary business is that of a locksmith and who may also install closed-circuit television cameras and battery-operated door devices.

~~(24)~~ (27) (a) "Security alarm system" means an assembly of equipment and devices or a single device or a portion of a system intended to detect or signal or to both detect and signal unauthorized intrusion, movement, or criminal acts at a location.

(b) The term does not include systems that monitor temperature, humidity, or any other atmospheric condition not directly related to the detection of an unauthorized intrusion or criminal act at a location.

~~(25)~~ (28) "Security company" means an electronic security company, a proprietary security organization, or a contract security company.

~~(26)~~ (29) "Street patrol service" means a person providing patrols by means of foot, vehicle, or other method of

transportation using public streets, thoroughfares, or property in the performance of the person's duties and responsibilities.

~~(27)~~ (30) "Unarmed private investigator" means a private investigator who does not wear, carry, or possess a firearm in the performance of the individual's duties.

~~(28)~~ (31) "Unarmed private security guard" means an individual who is employed by a contract security company or a proprietary security organization, whose duty or any portion of whose duty is that of a private security guard, armored car service guard, or alarm response runner, and who does not wear, carry, or possess a firearm in the performance of those duties.""

Insert: "Section 7. Section 37-60-103, MCA, is amended to read:

"37-60-103. Purpose. The purpose of this chapter is to increase the levels of integrity, competency, and performance of security companies and their employees who are required to be licensed, firearms instructors, private investigators, bail fugitive recovery agents, and process servers to safeguard the public health, safety, and welfare against illegal, improper, or incompetent actions committed by security companies and their licensed employees, firearms instructors, private investigators, or process servers.""

Insert: "Section 8. Section 37-60-202, MCA, is amended to read:

"37-60-202. Rulemaking power. The board shall adopt and enforce rules:

(1) fixing the qualifications of resident managers, licensees, holders of identification cards, and process servers, in addition to those prescribed in Title 25, chapter 1, part 11, and in this chapter, necessary to promote and protect the public welfare;

(2) establishing, in accordance with 37-1-134, application fees for original licenses and identification cards, and providing for refunding of any fees;

(3) (a) requiring approval of the board prior to the establishment of branch offices of any licensee; and

(b) establishing qualification requirements and license fees for branch offices identified in subsection (3)(a);

(4) for the certification of private investigator, private security guard, security alarm installer, ~~and~~ alarm response runner, and bail fugitive recovery agent training programs, including the certification of firearms training programs;

(5) for the licensure of firearms instructors;

(6) for the approval of weapons;

(7) requiring licensees, except process servers, to file an insurance policy with the board; and

(8) providing for the issuance of probationary identification cards for private investigators and security alarm installers who do not meet the requirements for age, employment experience, or written examination.""

Insert: "Section 9. Section 37-60-301, MCA, is amended to read:

"37-60-301. License required -- process server registration

required. (1) (a) Except as provided in 37-60-105, it is unlawful for any person to act as or perform the duties, as defined in 37-60-101, of a contract security company, a proprietary security organization, an electronic security company, a branch office, a private investigator, a security alarm installer, an alarm response runner, a resident manager, a certified firearms instructor, or a private security guard, or a bail fugitive recovery agent without having first obtained a license from the board.

(b) Except as provided in 25-1-1101(2), it is unlawful for any person to act as or perform the duties of a process server for more than 10 services of process in a calendar year without being issued a certificate of registration by the board.

(2) It is unlawful for any unlicensed person to act as, pretend to be, or represent to the public that the person is licensed as a contract security company, a proprietary security organization, an electronic security company, a branch office, a private investigator, a security alarm installer, an alarm response runner, a resident manager, a certified firearms instructor, or a private security guard, or a bail fugitive recovery agent.

(3) A person appointed by the court as a confidential intermediary under 42-6-104 is not required to be licensed under this chapter. A person who is licensed under this chapter is not authorized to act as a confidential intermediary, as defined in 42-1-103, without meeting the requirements of 42-6-104.

(4) A person who knowingly engages an unlicensed contract security company, proprietary security organization, electronic security company, branch office, private investigator, security alarm installer, alarm response runner, resident manager, certified firearms instructor, or private security guard, or bail fugitive recovery agent is guilty of a misdemeanor punishable under 37-60-411.

(5) A bail bond agent, a surety, or a person licensed as a private investigator may not apprehend or make an arrest of a bail fugitive unless licensed as a bail fugitive recovery agent under this chapter."

Insert: "Section 10. Section 37-60-303, MCA, is amended to read:

"37-60-303. License or registration qualifications. (1) Except as provided in subsection (7)(a), an applicant for licensure under this chapter or an applicant for registration as a process server under this chapter is subject to the provisions of this section and shall submit evidence that the applicant:

- (a) is at least 18 years of age;
- (b) is a citizen of the United States or a legal, permanent resident of the United States;
- (c) has not been convicted in any jurisdiction of any felony or any crime involving moral turpitude or illegal use or possession of a dangerous weapon, for which a full pardon or similar relief has not been granted;
- (d) has not been judicially declared incompetent by reason

of any mental defect or disease or, if so declared, has been fully restored;

(e) is not suffering from habitual drunkenness or from narcotics addiction or dependence;

(f) is of good moral character; and

(g) has complied with other experience qualifications as may be set by the rules of the board.

(2) In addition to meeting the qualifications in subsection (1), an applicant for licensure as a private security guard, security alarm installer, or alarm response runner, or bail fugitive recovery agent shall:

(a) complete the requirements of a training program certified by the board and provide, on a form prescribed by the department, written notice of satisfactory completion of the training; and

(b) fulfill other requirements as the board may by rule prescribe.

(3) In addition to meeting the qualifications in subsection (1), each applicant for a license to act as a private investigator shall submit evidence under oath that the applicant:

(a) is at least 21 years of age;

(b) has at least a high school education or the equivalent;

(c) has not been dishonorably discharged from any branch of the United States military service; and

(d) has fulfilled any other requirements as the board may by rule prescribe.

(4) The board may require an applicant to demonstrate by written examination additional qualifications as the board may by rule require.

(5) An applicant for a license as a private security patrol officer, or private investigator, or bail fugitive recovery agent who will wear, carry, or possess a firearm in performance of the applicant's duties shall submit written notice of satisfactory completion of a firearms training program certified by or satisfactory to the board, as the board may by rule prescribe.

(6) Except for an applicant subject to the provisions of subsection (7)(a), the board shall require a background investigation of each applicant for licensure or registration under this chapter that includes a fingerprint check by the Montana department of justice and the federal bureau of investigation.

(7) (a) A firm, company, association, partnership, limited liability company, corporation, or other entity that intends to engage in business governed by the provisions of this chapter must be incorporated under the laws of this state or qualified to do business within this state and must be licensed by the board or, if doing business as a process server, must be registered by the board.

(b) Individual employees, officers, directors, agents, or other representatives of an entity described in subsection (7)(a) who engage in duties that are subject to the provisions of this

part must be licensed pursuant to the requirements of this part or, if doing business as a process server, must be registered by the board.""

Insert: "Section 11. Section 37-60-304, MCA, is amended to read:

"37-60-304. Licenses and registration -- application form and content. (1) An application for a license or for a certificate of registration as a process server must be submitted to the department and accompanied by the application fee set by the board.

(2) An application must be made under oath and must include:

(a) the full name and address of the applicant;

(b) the name under which the applicant intends to do business;

(c) a statement as to the general nature of the business in which the applicant intends to engage;

(d) a statement as to whether the applicant desires to be licensed as a contract security company, a proprietary security organization, an electronic security company, a branch office, a certified firearms instructor, a private investigator, a security alarm installer, an alarm response runner, a resident manager, or a private security guard, or a bail fugitive recovery agent or registered as a process server;

(e) except for an applicant pursuant to 37-60-303(7)(a), one recent photograph of the applicant, of a type prescribed by the department, and one classifiable set of the applicant's fingerprints;

(f) a statement of the applicant's age and experience qualifications, except for an applicant pursuant to 37-60-303(7)(a); and

(g) other information, evidence, statements, or documents as may be prescribed by the rules of the board.

(3) The board shall verify the statements in the application.

(4) The submittal of fingerprints is a prerequisite to the issuance of a license or certificate of registration to an applicant, other than an applicant under 37-60-303(7)(a), by means of fingerprint checks by the Montana department of justice and the federal bureau of investigation.""

Insert: "Section 12. Section 37-60-405, MCA, is amended to read:

"37-60-405. Approval of weapons. The weapons to be carried by armed licensees or holders of identification cards as private security personnel, or private investigators, or bail fugitive recovery agents licensed under this chapter must be approved by the board.""

Insert: "Section 13. Section 46-9-510, MCA, is amended to read:

"46-9-510. Surrender of defendant. (1) At any time before the forfeiture of bail or within 90 days after forfeiture:

(a) the defendant may surrender to the court or any peace officer of this state; or

(b) the surety ~~company~~ licensed as a bail fugitive recovery agent under Title 37, chapter 60, or acting through a licensed bail fugitive recovery agent may arrest the defendant and surrender the defendant to the court, any peace officer, or any detention center facility of this state.

(2) The peace officer or detention center facility shall detain the defendant in custody as upon commitment and shall file a certificate, acknowledging the surrender, in the court having jurisdiction of the defendant. The court shall then order the bail exonerated.""

Renumber: subsequent section

24. Page 4, line 1.

Strike: "8"

Insert: "5"

25. Page 4, line 2.

Strike: "8"

Insert: "5"

- END -

SENATE PROXY

I, Senator KENDALL VAN DYK, hereby authorize Senator Tom Facey to vote my proxy before the Senate Business, Labor and Economic Affairs meeting held on 3/28/13, 2013.

Senator Signature

Date _____

Said authorization is as follows: *(mark only one)*

- ☒ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

[illegible]

SENATE PROXY

I, Senator ERIC MOORE, hereby authorize Senator Verdell Jackson to vote my proxy before the Senate Business, Labor and Economic Affairs meeting held on 3/28, 2013.

Senator Signature

Date _____

Said authorization is as follows: *(mark only one)*

- ☐ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

[illegible]

